

REMARKS

The present Office Action addresses and rejects claims 1, 5-13, and 15-18.

Claim Rejections

Claims 1, 5-8, 10-13, and 15-18 are rejected pursuant to 35 U.S.C. §103(a) as being obvious over Japanese Patent No. 09028458A of Kokuni in view of U.S. Patent No. 3,718,145 of Chateau and U.S. Patent No. 6,540,756 of Vaughan. Dependent claim 9 is rejected pursuant to 35 U.S.C. §103(a) as being unpatentable over Kokuni in view of Chateau and Vaughan and in further view of U.S. Patent No. 5,186,190 of Hirzel.

Claims 1, 5-8, 10-13, and 15-18

Independent claim 1 recites a template for applying simulated eyebrows to a person's face having a vertical line extending from an upper edge to a cutout portion at a substantial midpoint of a sheet, and a horizontal line extending from a right eyebrow slot to a left eyebrow slot. The vertical and horizontal lines are adapted to facilitate alignment of the template with respect to a person's face. Independent claim 18 recites a template for applying simulated eyebrows to a person's face having a horizontal line extending from a left eyebrow slot to a right eyebrow slot for aligning the template with a person's eyes, and a vertical line extending from an upper edge to a cutout portion formed in a lower edge of the template for aligning the template on a person's nose. The Examiner admits that Kokuni fails to show a vertical and a horizontal line adapted to facilitate alignment of a template. The Examiner thus relies on Chateau to disclose a fleur-de-lis cut-out positioned in a center of a template and Vaughan to disclose a tool with "a vertical line and a horizontal line defining a cross hair for marking lines." (O.A. dated Oct. 13, 2006, pg. 3). The Examiner argues that it would have been obvious to one skilled in the art to employ a marking in the center of the template of Kokuni in view of Chateau, and to use the cross hair lines as taught by Vaughan in order to facilitate in centering the lines. Applicants respectfully disagree.

A person having ordinary skill in the art would not be motivated to Kokuni in view of Vaughan. Vaughan teaches a tool with slits in the shape of cross hairs that allow a radiologist to mark on a patient's skin to define a location for radiation treatment. The slits of Vaughan include

measurement markings so that the slits can be placed on the skin based on detailed calculations by the radiologist. Kokuni, on the other hand, is directed to a template for stenciling in eyebrows on a person's face. There is no need for marking a site for radiation treatment. Therefore, no person having ordinary skill in the art would be motivated to place the slits of Vaughan on the template of Kokuni.

Further, The Examiner has overlooked the fact that Vaughan represents non-analogous art that cannot be relied on to formulate an obviousness rejection over the pending claims. In order to rely on a reference in analyzing the obviousness of the subject matter at issue, the reference must be analogous prior art. A reference is "analogous" if (1) the reference is within the field of the inventor's endeavor, and if it is not then (2) the reference must be reasonably pertinent to the particular problem with which the inventor was involved. Vaughan is not within the field of the inventor's endeavor, and it is not reasonably pertinent to the problem to be solved.

As discussed above, Vaughan teaches a tool used in marking a site on the skin for radiation treatments. The present invention, however, teaches a template for applying eyebrows to a person's face. No person having ordinary skill in the art would combine a reference directed to obtaining accurate radiation treatment sites with a template for applying eyebrows. The tool of Vaughan aids in medical procedures while the present invention is directed towards personal, cosmetic use. Thus, Vaughan is not within the field of the Applicant's endeavor. In addition, the tool of Vaughan is not directed towards horizontal and vertical alignment, as is the present invention, but is instead designed to indicate a calculated position on a person's body. Thus, Vaughan is not reasonably pertinent to the particular problem with which the inventor is involved.

For all of the reasons stated above, independent claims 1 and 18, as well as claims 5-8, 10-13, and 15-17 which depend from claim 1, distinguish over Chateau and Kokuni in view of Vaughan and represent allowable subject matter.

Claim 9

The Examiner also rejects dependent claim 9 as being obvious over Kokuni in view of Chateau and Vaughan and in further view of Hirzel. As explained above, independent claim 1 distinguishes over Kokuni, Chateau, and Vaughan, and Hirzel does not remedy their deficiencies.

Hirzel is merely relied on to teach a connecting element having a hole formed adjacent right and left edges of a sheet. Hirzel, however does not teach a vertical line extending from an upper edge to a cutout portion at a substantial midpoint of a sheet, and a horizontal line extending from a right eyebrow slot to a left eyebrow slot, the vertical and horizontal lines being adapted to facilitate alignment of a template with respect to a person's face, as required by independent claim 1. Accordingly, dependent claim 9 distinguishes over Kokuni, Chateau, and Vaughan in view of Hirzel at least because it depends from an allowable base claim.

Conclusion

Applicant submits that all claims are in condition for allowance, and allowance thereof is respectfully requested. Applicant encourages the Examiner to telephone the undersigned upon receipt of this response to discuss any issues that may remain.

Respectfully submitted,

Date: December 7, 2006

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